

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

The United States of America,

Plaintiff, Case No. 17-20184

v.

Judith E. Levy
United States District Judge

Corey Toney, *et al.*,

Mag. Judge Mona K. Majzoub
Defendants.

/

**ORDER GRANTING IN PART AND DENYING IN PART THE
GOVERNMENT'S MOTION IN LIMINE [411]**

On January 24, 2020, the Court held a hearing and heard oral argument on the Government's January 2, 2020 motion *in limine*. For the reasons set forth on the record, the Court orders the following:

- The Court GRANTS IN PART AND DENIES IN PART the United States's motion to preclude Defendants from presenting evidence and arguments designed to encourage jury nullification;
- The Court GRANTS the United States's motion to preclude Defendants from presenting evidence and arguments concerning government charging decisions;

- The Court GRANTS the United States's motion to preclude Defendants from presenting evidence and arguments concerning the collateral consequences of conviction; and
- The Government GRANTS IN PART AND DENIES IN PART the United States's motion to prevent Defendants from admitting certain statements into evidence. The Court's Order addresses only the seven specific statements discussed during the hearing and requires the following:
 - Defendants' requested statements on pages 135-136, 150, 159, 170, 202, and 233 of the Government's transcript are inadmissible hearsay and will not be admitted.
 - Defendants' requested statements on page 138 of the Government's transcript are admissible under the residual hearsay exception, Fed. R. Evid. 807. Should the Government play their intended statements on pages 137 and 138, the Rule of Completeness requires that the Government also play Defendants' requested statements during the Government's case in chief, as these statements "ought in fairness to be considered contemporaneously." Fed. R. Evid. 106.

The Court notes that it retains the discretion to reconsider all *in limine* decisions as issues arise during the course of trial. *Indiana Ins. Co. v. Gen. Elec. Co.*, 326 F. Supp. 2d 846, 846 (N.D. Ohio 2004).

IT IS SO ORDERED.

Dated: February 3, 2020
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record and/or pro se parties on this date, February 3, 2020, using the Electronic Court Filing system and/or first-class U.S. mail.

s/William Barkholz
Case Manager